

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

NOV 30 2006

JOHN F. CORCORAN, CLERK
BY: *S. Saylor*
DEPUTY CLERK

THOMAS AGEE FITZGERALD,
Petitioner,

v.

GENE M. JOHNSON,
Respondent.

Civil Action No. 7:06CV00427

FINAL ORDER

By: Hon. Glen E. Conrad
United States District Judge

For the reasons stated in the accompanying memorandum opinion, it is now

ORDERED

as follows:

1. The respondent's motion to dismiss shall be and hereby is **GRANTED**;
2. The petitioner's request for an evidentiary hearing shall be and hereby is **DENIED**; and
3. The petition for writ of habeas corpus filed by the petitioner shall be and hereby is **DISMISSED** and **STRICKEN** from the active docket of the court.

The Clerk is directed to send certified copies of this order and the accompanying memorandum opinion to the petitioner and counsel of record for the respondent.

ENTER: This 30th day of November, 2006.

Glen E. Conrad

United States District Judge